

## § 172.31

claim has been referred to the Department of Justice for collection as provided in § 172.2.

[T.D. 70-249, 35 FR 18267, Dec. 1, 1970, as amended by T.D. 87-51, 52 FR 12152, Apr. 15, 1987]

### Subpart D—Disposition of Petitions

#### § 172.31 Act or omission did not occur.

(a) *Definite.* If it is definitely determined that the act or omission forming the basis for a claim for liquidated damages did not in fact occur, the claim shall be cancelled by the Fines, Penalty, and Forfeiture Officer. If the liquidated damages have already been paid, they shall be refunded by Customs, and an appropriate notation shall be made on Customs Form 5955-A, if the transaction has already been recorded thereon.

(b) *Dependent upon a construction of law.* When the determination of whether or not the claim was erroneously made depends upon a construction of law, the claim shall not be cancelled without the approval of the Commissioner of Customs, unless there is in force a ruling decisive of the issue.

(c) *Doubtful cases.* Approval of the Commissioner of Customs shall be requested in all doubtful cases.

[T.D. 74-227, 39 FR 32023, Sept. 4, 1974]

#### § 172.32 Limitation on time decision effective.

A decision to cancel a claim for liquidated damages on condition that a stated amount be paid shall be effective for not more than 60 days from the date of notice to the parties of such decision, unless the decision itself prescribes a different effective period or the decision is later amended to change the effective period. If payment of the stated amount is not made, or arrangements made for delayed payment or installment payments, or a supplemental petition filed, within the effective period, the full claim for liquidated damages shall be deemed applicable and, after required collection action, shall be promptly referred to the U.S. attorney unless other action has been di-

## 19 CFR Ch. I (4-1-98 Edition)

rected by the Commissioner of Customs.

[T.D. 70-249, 35 FR 18267, Dec. 1, 1970, as amended by T.D. 79-160, 44 FR 31962, June 4, 1979]

#### § 172.33 Supplemental petitions for relief.

(a) *Time and place of filing.* If the interested parties are not satisfied with a decision of the Fines, Penalty, and Forfeiture Officer or the Commissioner of Customs, a supplemental petition may be filed with the Fines, Penalty, and Forfeiture Officer by the interested parties. Such a petition shall be filed either:

(1) Within 30 days from the date of notice to the petitioner of the decision from which further relief is requested if no effective period is prescribed in the decision; or

(2) Within the time prescribed in the decision from which further relief as requested as the effective period of the decision.

(b) *Consideration—(1) Decisions of the Fines, Penalty, and Forfeiture Officer.* Where a supplemental petition requests further relief from a decision of the Fines, Penalty, and Forfeiture Officer, he may grant additional relief, if he believes it is warranted, in cases in which he has the authority to grant relief in accordance with the provisions of § 172.21. Supplemental petitions for further relief in cases initially decided by the Fines, Penalty, and Forfeiture Officer in accordance with the provisions of § 172.21, together with all pertinent documents, shall be forwarded to the designated Headquarters official if:

(i) There has been a specific request by the petitioner for review by the designated Headquarters official; or

(ii) The Fines, Penalty, and Forfeiture Officer believes no additional relief is warranted.

(2) *Decisions of the Commissioner of Customs.* A supplemental petition appealing a decision of the Commissioner of Customs shall be filed, together with all pertinent documents, with the Fines, Penalty, and Forfeiture Officer who initiated the case for transmittal to the Commissioner of Customs for reconsideration.

(c) *Second supplemental petition.* (1) Only one further supplemental petition